

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

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GARY D. McFARLAND
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PAUL SIMMERING,

Plaintiff,

v.

TOM BLANCHARD and CAROL HOLT,
d/b/a COUNCIL OF MOTORSPORTS
CLUBS - ROCKY MOUNTAIN
REGION, INC.,

Defendants.

Case No.

7:03CV5021

**COMPLAINT, DESIGNATION OF PLACE OF TRIAL,
AND DEMAND FOR JURY TRIAL**

Plaintiff states as follows:

JURISDICTIONAL ALLEGATIONS

1. Plaintiff is a resident of Adams County, Nebraska. Defendants are residents of the State of Colorado. The events complained of in this Complaint took place in Adams County, Nebraska.

2. There is complete diversity between Plaintiff and Defendants, and the amount in controversy exceeds, exclusive of interest and costs, the sums specified by 28 U.S.C. §1332.

FIRST CAUSE OF ACTION

3. On August 18, 2002, an event known as the Spady.com Motorsports Mile, which was an autocross automobile race, was being conducted within the city limits of Hastings, Nebraska in Adams County, Nebraska. This race was organized, promoted, and managed by Defendants.

4. At approximately 3:00 o'clock p.m. on August 18, 2002, Plaintiff was watching the race from a point near 302 N. Denver in Hastings, Nebraska, which was a place where spectators were invited to come to watch the race. At that same time and place, a vehicle being driven by Michael Jerad Baures while participating in the race, was traveling south on Denver Street. As it approached Plaintiff's position at 302 N. Denver, the vehicle being driven by Mr. Baures went out of control, left the street, and entered the area where spectators to include Plaintiff were watching the race. The vehicle collided directly with Plaintiff.

5. The collision above described was proximately caused by the negligence of Defendants in that they failed to organize, design and maintain the race course in a manner that was reasonably safe for foreseeable spectators to include Plaintiff, under foreseeable conditions.

6. As a proximate result of the negligence of Defendants as above set forth, Plaintiff suffered personal injuries in the collision above-described, to his damage in the following particulars:

- a. He has incurred medical expenses which currently amount to \$29,772.15, and which are still continuing;
- b. He will incur medical expenses in the future;
- c. He has lost income which amounts to \$25,000.00 to date, and which is still continuing;
- d. He will incur lost income in the future;

- e. Disability, both past and future;
- f. Pain and suffering to include mental anguish, both past and future.

SECOND CAUSE OF ACTION

7. For his Second Cause of Action, Plaintiff restates paragraph 1 through 6 above.

8. At the time of the events complained of herein, Plaintiff was the lawfully wedded spouse of Trish Simmering, who has assigned her cause of action for this matter to Plaintiff for the purpose of this case.

9. As a direct result of Plaintiff's injuries, Trish Simmering has suffered the loss of her husband's support, as well as the conjugal relationship, and other benefits of her marriage to Plaintiff, both past and future.

WHEREFORE, Plaintiff prays for judgment against Defendants on his First Cause of Action in the amount of \$54,772.15 for his special damages, and for such amounts as are allowable by law for his general damages. Plaintiff prays for judgment against Defendants on his Second Cause of Action for such amounts as are allowable by law.

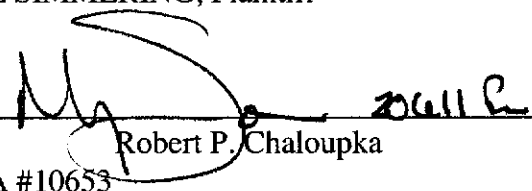
DESIGNATION OF PLACE OF TRIAL AND REQUEST FOR JURY

Plaintiff requests a jury trial in North Platte, Nebraska.

DATED this 11 day of September, 2003.

PAUL SIMMERING, Plaintiff

By


Robert P. Chaloupka

NSBA #10653

CHALOUPKA, HOLYOKE, HOFMEISTER,
SNYDER & CHALOUPKA, L.L.O.

1714 Second Avenue

P.O. Box 2424

Scottsbluff, NE 69363-2424

Telephone: (308) 635-5000